

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: LALOY, Luc

SERIAL NO.: 10/656,864

ART UNIT: 3765

FILED: September 5, 2003

EXAMINER: Nerbun, P.P.

TITLE: HEADWEAR ITEM, AND MORE PARTICULARLY A CAP, A VISOR AND OTHERS

AMENDMENT "A"

Director of the U.S. Patent
and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of June 10, 2005, a response being due with a one-month extension of time by October 10, 2005, please consider the following remarks:

REMARKS

Upon entry of the present amendments, previous Claims 1 - 10 have been canceled and new Claims 11 - 16 substituted therefor. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art.

In the Office Action, it was indicated that Claims 1 - 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Lee patent in view of the Brown patent. Claims 1, 2 and 6

were rejected as being anticipated by the Brown patent. The claim were also objected to because of minor language informalities.

As an overview to the present reply, Applicant has amended the original claims in the form of new independent Claims 11 and 12 and dependent Claims 13 - 16. New independent Claim 11 incorporates the limitations of original independent Claim 1, along with the limitations of dependent Claims 2 - 5. New independent Claim 12 incorporates the limitations of independent Claim 1, along with the limitations of dependent Claim 6. Dependent Claims 13 - 16 correspond, respectively, to the limitations of dependent Claims 7 - 10.

Relative to the prior art patents, Applicant notes that the Brown patent concerns a sweatband. The band of the Brown patent is equipped on part of its perimeter with a band having hooks designed to work together with the band with loops in order to attach a visor or a cap. The cap has an opening 35 on a back part thereof. An elastic band 36 faces the opening and is able to stretch and fit the head of the user. The Brown patent discloses the elastic band arranged over the entire periphery of the headdress together with the cut-out 35 at an end thereof. The width of the elastic band is less than the height of the cut-out 35.

The Lee patent does disclose an elastic panel fitted to a cut-out 30 formed at the rear of the cap. This cut-out has a semi-circular shape. The elastic band extends from the lower rim of the cap upwardly toward the top of the semi-circular cut-out. The Lee patent does not show the elastic band as “extending along an entire periphery of the headdress”.

Relative to independent Claim 11, it is important to note that the combination of the Lee and Brown patents does not show the structure of the present invention as defined by Claim 11. In the present invention, the cut-out is “defined by a selvedge line extending substantially parallel to the

lower rim”. In contrast, the Brown patent has a cut-out that is defined by a semi-circular cut formed at the back of the cap. Similarly, the Lee patent shows a similar semi-circular cut-out at the back of the cap. As such, it cannot extend substantially parallel to the lower rim of the cap.

In the present invention, the elastic band has a width dimension that is approximately equal to the height dimension between the lower rim of the cap and the selvedge line of the cut-out. In contrast, the Brown patent shows the elastic band as having a height which is less than the height of the cut-out.

In the present invention, the upper edge of the elastic band is sewn to the headdress at the selvedge line. In contrast, in the Brown patent, the elastic band 36 is secured by hook-and-loop material to the inside edge of the cap. It is not, in any way, sewn to the selvedge line of the cut-out. Similarly, in the Lee patent, the elastic band is not sewn to the selvedge line that extends substantially parallel to the lower rim.

In the present invention, it is defined in independent Claim 11 that the elastic band has a lower rim that is sewed to the headdress “at a front of said headdress”. Neither the Brown nor Lee patents contemplate such a structure. As such, the combination of the Lee and Brown patents do not teach the present invention as defined by Claim 11. One having ordinary skill in the art of cap designs, having viewed the Brown and Lee patents, would not envision the sewing of the elastic band along a line parallel to the lower rim of the headdress. Additionally, one having ordinary skill in the art of the Brown patent would be inclined to place a sweatband in the area of the cut-out, rather than the elastic band of the present invention. Since the sweatband of the Brown patent is intended to be detached when saturated, this would be incompatible with the sewing of such a band to the headdress. Additionally, when viewing the dimensions of the cut-out of the Lee patent with the

width of the elastic band shown in the Brown patent, the two pieces cannot be sewn together, as claimed in independent Claim 11. In other words, the upper border of the elastic band is sewn, at the cut-out, to the headdress at the selvedge line. The lower border of the elastic band is sewn to the lower border of the headdress at the front of the headdress. These features are neither shown nor suggested by the prior art combination. On this basis, Applicant contends that independent Claim 11 is patentably distinguishable from the prior art.

Relative to independent Claim 12, Applicant respectfully contends that the combination of the Lee and Brown patents would not teach or show the present invention as defined by Claim 12. In particular, Claim 12 emphasizes that the headdress has “at least one cut-out extending in the form of a semi-crescent from the lower rim of the headdress to a summit of the headdress”. The elastic band also extends over this cut-out from the summit to the lower rim of the headdress. The elastic band is sewn along the edges of the cut-out so as to be visible from the exterior of the cap. The Lee patent shows a semi-circular cut-out formed in the back of the cap. This cut-out does not extend from the lower rim of the cap to the summit of the cap. The Lee patent does not show the elastic band extending around the periphery of the headdress. The Brown patent shows a similar semi-circular cut-out which does not extend to the summit of the cap. As such, this limitation of Claim 12 is not shown in the combination of these prior art patents.

Since the Brown patent contemplates a sweatband, this sweatband would be incompatible with joining to the headdress by sewing.

The elastic band of the present invention achieves the advantage of reducing cost of fabrication and material used since the peripheral elastic band and the elastic member covering the cut-outs are of the same type of material. Unlike the prior art combination, the present invention

provides two dimensions of elasticity. One dimension extends around the head. The other dimension extends from the base of the headdress to the summit of the cap. This combination is neither shown nor suggested by the prior art combination. On this basis, Applicant contends that independent Claim 12 is patentably distinguishable from the prior art.

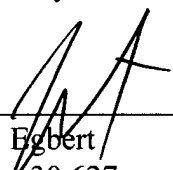
Applicant has revised the claim language so as to place the claim language into a more proper U.S. format, including proper antecedent bases and proper structural interrelationships throughout. Any indefinite terminology found in the original claim language has been corrected herein.

Based upon the foregoing analysis, Applicant contends that independent Claims 11 and are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

10-10-05

Date



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